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**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

MEETING DATE January 16, 2015	CONTACT/PHONE Stephanie Fuhs (805)781-5721	APPLICANT Michael Peachy	FILE NO. DRC2014-00014
EFFECTIVE DATE January 30, 2015	sfuhs@co.slo.ca.us		
SUBJECT Hearing to consider a request by MICHAEL PEACHY for a Minor Use Permit to allow for construction of six 721 square foot, 2 bedroom, 1/12 bath townhouses as rental units. The project will result in the disturbance of approximately 20,000 square feet of the 24,000 square foot parcel. The proposal also includes an adjustment to the front setback standards to allow front setbacks of between 10 and 15 feet. The proposed project is within the Residential Multi-Family land use category and is located at 164 South Mallagh Street (on the northwest corner of South Mallagh and Price Street in the community of Nipomo. The site is in the South County (South County Sub-area) planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2014-00014 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION This project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this project may have a significant effect on the environment; therefore, the activity is not subject to CEQA. [Reference: State CEQA Guidelines sec. 15061(b)(3), General Rule Exemption].			
LAND USE CATEGORY Residential Multi-Family	COMBINING DESIGNATION None	ASSESSOR PARCEL NUMBER 090-136-005	SUPERVISOR DISTRICT(S): 4
PLANNING AREA STANDARDS: 22.98.070 – South County Sub-Area Standards, 22.108.040 – Nipomo Community Standards <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
LAND USE ORDINANCE STANDARDS: 22.10.060 – Exterior Lighting, 22.10.080 – Fencing and Screening, 22.10.090 – Height Measurement, 22.10.140- Setbacks, 22.10.155 – Stormwater Management <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become final action on the project, effective on the 15 th day following the administrative hearing, or on January 30, 2015, if no hearing was requested unless this decision is changed as a result of information obtained at the hearing or is appealed.			
EXISTING USES: Two existing residential units and storage building			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Office-Professional/Undeveloped, residential <i>East:</i> Residential Single Family/Residences <i>South:</i> Residential Single Family/Agriculture/Residences, row crops <i>West:</i> Office Professional/Residential, offices			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER ♦ SAN LUIS OBISPO ♦ CALIFORNIA 93408 ♦ (805) 781-5600 ♦ FAX: (805) 781-1242			

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OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: South County Advisory Council, Public Works, CalFire, HEAL SLO, Nipomo Community Services District, Native American Heritage Commission	
TOPOGRAPHY: Mostly level	VEGETATION: Grasses, ornamentals
PROPOSED SERVICES: Water supply: Community system Sewage Disposal: Community sewage disposal system Fire Protection: CalFire	ACCEPTANCE DATE: December 8, 2014

DISCUSSION

PROJECT DESCRIPTION

The proposal is to construct six 721 square foot, 2 bedroom, 1/12 bath townhouses as rental units on a 24,000 square foot parcel. The parcel is currently developed with two units and a storage building located on the north side of the property.

The proposal also includes an adjustment to the front setback standards to allow front setbacks of between 10 and 15 feet, instead of the normally required 25 feet.

A Phase I archaeological surface survey was conducted for the project site (Thor Conway, Heritage Discoveries, Inc., April 24, 2014). The survey found evidence of cultural materials on the property and recommended that Phase II archaeological subsurface testing be completed prior to construction of the proposed project. See further discussion of the findings and recommendations under "Staff Comments" below.

PLANNING AREA STANDARDS

22.98.070 – South County Sub-Area Standards: F.2. - Nipomo Mesa Water Conservation Area:
 Applicable landscape standards include providing irrigation systems with smart controllers and drip irrigation, turf area limitations of 300 square feet per unit, and compliance with Section 19.07.042 of the Building and Construction Code. *As proposed and conditioned, the project will meet these standards.*

22.108.040 – Nipomo Community Standards

Community-wide – Applicable standards include providing a minimum 8-foot parkway between curb and sidewalk with a minimum of one street tree per 50 feet of frontage along with low maintenance, low water using plants and approval of a drainage plan. *The project has been conditioned to provide improvement plans for the landscaped parkway in accordance with the Land Use Ordinance standard. A preliminary drainage plan along with a stormwater control plan were submitted with the project application. Public Works reviewed this information and has determined that the project can proceed with conditions for a final drainage plan with calculations and stormwater management plan at the time of application for construction permits.*

Residential Multi- Family – The project site is within the 15 units per acre density area. The property is 24,000 square feet, which equates to maximum allowable units of eight. Additional standards include: Minor Use Permit approval for development of five or more multi-family units, site planning criteria, including, private outdoor space and active recreation area. *The site has two existing units and is proposing six additional units which meets the density standard. The*

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proposal is a Minor Use Permit for six additional units on the property. Private outdoor space is not shown on the proposed plan, but has been conditioned to provide a minimum 15x15 foot outdoor area for each unit at the time of construction permits. A minimum 375 square feet for common area is required. Plans show a common area of over 1,700 square feet which complies with this standard.

LAND USE ORDINANCE STANDARDS

22.10.060 – Exterior Lighting - Standards include having lighting directed onto the parcel, minimizing light intensity, shielding, and height limits for light fixtures not to be taller than the highest structure on the parcel. *As conditioned, the project meets this standard.*

22.10.080 – Fencing and Screening – Multi-family projects shall be screened on all interior property lines. Screening shall be a minimum of six feet in height. *This standard would apply to the western property line furthest away from Mallagh Street. Screening can be in the form of fencing and/or landscape screening. A condition has been added to comply with this standard.*

22.10.090 – Height Measurement – The maximum height for structures in this area is 35 feet. *As proposed, the residences are approximately 22 feet which complies with this standard.*

22.10.130 – Residential Density – This section sets forth the maximum units per acre and maximum floor area and minimum open area for projects. *The maximum number of units per acre is superseded by planning area standards in the Nipomo area. The maximum floor area for this site is 35%, which equates to 8,400 square feet. The floor area of all existing and proposed structures is approximately 6,200 square feet, or 26%, which complies with this standard. The minimum open area required is 55%, which is 13,200 square feet. The open space on the parcel is approximately 15,900 square feet which complies with this standard.*

22.10.140- Setbacks - The normal setbacks on a residential corner parcel less than an acre are: 25 feet in the front, 10 feet on the corner side, 5 feet on the interior side and 10 feet in the rear. Plans show a variable front setback between 10 and 15 feet along the Price Street frontage which is considered the front of the property. *The Land Use Ordinance allows for a variable setback block adjustment when a residential block is partially developed with single-family dwellings that have less than the required front setback, and no uniform front setback is established by a planning area standard. The adjustment may be granted only when 25 percent of the lots on the block with the same frontage are developed, and the entire block is within a single land use category. The normally required minimum front setback shall be reduced to the average of the front setbacks of the existing dwellings (which include attached garages but not detached garages), to a minimum of 10 feet. Setbacks along the north side of Price Street vary from 10 to 15 feet; therefore staff is recommending that the variable setback can be approved. Findings for the adjustment are included in the staff report for the Hearing Officer's consideration.*

22.10.155 – Stormwater Management – Projects located within Stormwater Management Areas involving over 2,500 square feet of impervious surfaces are required to comply with the standards of this section of the Land Use Ordinance. *As stated above, a stormwater control plan and preliminary drainage plan have been submitted and reviewed by Public Works. Conditions have been added to prepare a final drainage plan and compliance with the Stormwater Control Plan is required.*

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STAFF COMMENTS

The project has been found to be exempt from the California Environmental Quality Act by a General Rule Exemption. This exemption was issued because the project is located within an urbanized area that is served by community water and sewer, is in character with the surrounding development patterns, will not cause a significant increase in traffic and will provide, as conditioned, measures needed to ensure that cultural resources are studied in accordance with recommendations of the qualified archaeologist. All other issue areas such as air quality, noise, public services and traffic impact fees are covered by ordinance and do not require additional mitigation measures.

The Phase I surface survey found evidence of shell fragments on the property and recommended that Phase II testing be provided prior to disturbance on the project site. Conditions were added to the project according to this report in order to ensure that the project will have less than significant impact on cultural resources.

COMMUNITY ADVISORY GROUP COMMENTS

The South County Advisory Council supported the project at their November 24, 2014 meeting.

AGENCY REVIEW

Public Works – Supports with conditions for drainage, road improvements, stormwater management

CalFire – No comments received

HEAL SLO – Supports the use of solar, community garden, and inclusion of sidewalks, would like to see better access to bike paths and transit in the area in general (broader scale project)

Native American Heritage Commission – No comments received

Nipomo Community Services District – Issued a preliminary intent to serve letter

LEGAL LOT STATUS

The one lot was legally created by deed (85 DEEDS 538-9) at a time when that was a legal method of creating lots.

Staff report prepared by Stephanie Fuhs
and reviewed by Airlin Singewald, Senior Planner

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EXHIBIT B - CONDITIONS OF APPROVAL
Peachy Minor Use Permit DRC2014-00014

Approved Development

1. This approval authorizes:
 - a. Construction of six 721 square foot, 2 bedroom, 1/12 bath townhouses as rental units. The project will result in the disturbance of approximately 20,000 square feet of the 24,000 square foot parcel. The proposal also includes an adjustment to the front setback standards to allow front setbacks of between 10 and 15 feet.
 - b. Maximum height is 35 feet from average natural grade.

Conditions required to be completed at the time of application for construction permits

Site Development

2. **At the time of application for construction permits**, submit a revised site plan and landscape plan to the Department of Planning and Building for review and approval. The revised plan shall indicate the following and development shall be consistent with this revised and approved plan:
 - a. Site plan to show a 15x15 private outdoor area for each unit.
 - b. Landscape plan to show irrigation systems with smart controllers and drip irrigation, turf area limitations of 300 square feet per unit, and compliance with Section 19.07.042 of the Building and Construction Code.
 - c. Screening and/or fencing along the interior property line (western property line furthest from Mallagh Street).
 - d. The edge of the parking area on the interior side of the property shall contain either bollards, block fencing or curbing of sufficient height to ensure vehicles will not inadvertently maneuver onto the neighboring property to the west.
3. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp or the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark colored.

Fire Safety

4. **At the time of application for construction permits**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code. Requirements shall include, but not be limited to, those outlined in the Fire Safety Plan, prepared by CalFire for this proposed project.

Services

5. **At the time of application for construction permits**, the applicant shall provide a letter from the Nipomo Community Services District stating they are willing and able to service the property.

Access

6. **At the time of application for construction permits**, public improvement plans shall be prepared in compliance with Sections 22.54.030 (Curbs, Gutters and Sidewalks) and 22.108.040 (Nipomo Community-wide Standards – landscaped parkway) of the Land

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Use Ordinance and San Luis Obispo County Improvement Standards and Specifications by a Registered Civil Engineer and submitted to the Department of Public Works. The plans are to include, as applicable:

- a. Street plan and profile for widening Mallagh and Price Streets to complete the project side of an A-2 urban street section fronting the property. All proposed driveways along Mallagh and Price Streets shall be constructed to County standards.
- b. Pedestrian easements as necessary to contain all sidewalk, driveway and curb ramp improvements that extend beyond the existing right-of-way. Offer are to be recorded by separate document with the County Clerk upon review and approval by Public Works.
- c. Drainage ditches, culverts, and other structures (if drainage calculations require).
- d. Public utility plan, showing all existing utilities and installation of all new utilities to serve the site.
- e. Tree removal/retention plan for trees to be removed and retained associated with the required improvement for the land division to be approved jointly with the Department of Planning and Building.

7. **At the time of application for construction permits**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with CalFire standards and specifications back to the nearest publicly maintained roadway.

Drainage

8. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval in accordance with Section 22.52.110 (Drainage) of the Land Use Ordinance. All drainage must be retained or detained on-site and the design of the basin shall be approved by the Department of Public Works. Drainage shall be directed toward the interior of the project site toward on-site basins and/or vegetated swales able to accommodate all drainage flows created by the project. Any earth on the project side of the fencing, along the property line separating the adjacent Price Street parcel from the project parcel, against the current fencing and above the current grade of the base of the existing fence shall either; (1) be removed and the area appropriately graded or (2) be retained by a retention wall or structure such that in either the case of removal and grading or the case of installation of a retention structure all soil shall be retained on the project site.

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9. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plans for review and approval in accordance with Section 22.52.120 of the Land Use Ordinance.
10. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

Stormwater Pollution Prevention

11. **At the time of application for construction permits**, the applicant shall demonstrate whether the project is subject to the LUO Section for Stormwater Management. Applicable project shall submit a Stormwater Control Plan (SWCP) prepared by an appropriately licensed professional to the County for review and approval. The SWCP shall incorporate appropriate BMPs, shall demonstrate compliance with Stormwater

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Quality Standards and shall include a preliminary drainage plan, a preliminary erosion and sedimentation plan.

12. **At the time of application for construction permits**, if necessary, the applicant shall submit a draft "Private Stormwater Conveyance Management and Maintenance System" exhibit for review and approval by the County.

Conditions to be completed prior to issuance of a construction permit

Fees

13. **Prior to issuance of a construction permit**, the applicant shall pay all applicable school and public facilities fees.
14. ~~Prior to issuance of a construction permit, the applicant shall pay the housing impact fee as required by Section 22.12.080.F.1, or may defer fee payment pursuant to Section 22.12.080.J.4. As an alternative the applicant may provide housing units or a land donation, pursuant to Section 22.12.080.F.3.~~
15. **Prior to issuance of a construction permit for each unit**, in accordance with Title 13.01 of the County Code, the applicant shall be responsible for paying to the Department of Public Works the South County Area 1 Road Improvement fee for each future building permit in the amount prevailing at the time of payment.
16. **Prior to issuance of construction permits**, if necessary, the applicant shall record with the County Clerk, the "Private Stormwater Conveyance Management and Maintenance System" to document on-going and permanent storm drainage control, management, treatment, disposal and reporting.
17. **Prior to issuance of construction permits**, the applicant shall submit a Phase II archaeological investigation conducted by a qualified archaeologist approved by the Environmental Coordinator, that assesses the potential impacts of all ground disturbing activities associated with development of the three parcels (e.g. access roads, driveways, residences, utility trenches). The applicant shall implement the recommendations of the archaeologist, as required by the Environmental Coordinator, including Phase III data recovery sampling as appropriate. This plan shall evaluate and document existing cultural resources and provide mitigation measures for all site disturbance and grading associated with the development.
18. **Prior to issuance of construction permits**, if recommended as a result of the Phase II evaluation, the applicant shall submit to the Environmental Coordinator (and possibly subject to peer review) for the review and approval, a detailed research design for a Phase III (data recovery) archaeological investigation. The Phase III program shall be prepared by a subsurface qualified archaeologist approved by the Environmental Coordinator. The consulting archaeologist responsible for the Phase III program shall be provided with a copy of the previous archaeological investigations (Heritage Discoveries, 1995). The Phase III program shall include at least the following:
 - a. standard archaeological data recovery practices;
 - b. recommendation of sample size adequate to mitigate for impacts to archaeological site, including basis and justification of the recommended sample size. If a lesser sample size is recommended, supporting information shall be presented that justifies the smaller sample size.

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- c. identification of location of sample sites/test units;
- d. detailed description of sampling techniques and material recovery procedures (e.g. how sample is to be excavated, how the material will be screened, screen size, how material will be collected);
- e. disposition of collected materials;
- f. proposed analysis of results of data recovery and collected materials, including timeline of final analysis results;
- g. list of personnel involved in sampling and analysis.

19. **Prior to issuance of construction permits**, the applicant shall submit to the Environmental Coordinator, a letter from the consulting archaeologist indicating that all necessary field work as identified in the Phase III program has been completed.

20. **Prior to issuance of construction permits**, the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for the review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:

- a. List of personnel involved in the monitoring activities;
- b. Description of how the monitoring shall occur;
- c. Description of frequency of monitoring (e.g. full-time, part time, spot checking);
- d. Description of what resources are expected to be encountered;
- e. Description of circumstances that would result in the halting of work at the project site (e.g. What is considered "significant" archaeological resources?);
- f. Description of procedures for halting work on the site and notification procedures;
- g. Description of monitoring reporting procedures.

Conditions to be completed during construction

21. **During all ground disturbing construction activities**, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) to monitor all earth disturbing activities, per the approved monitoring plan. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

Conditions to be completed prior to occupancy or final building inspection / establishment of the use

22. Landscaping in accordance with the approved landscaping plan shall be installed or bonded for before **final building inspection / establishment of the use**. If bonded for, landscaping shall be installed within 60 days after final building. All landscaping shall be maintained in a viable condition in perpetuity.

23. **Prior to occupancy or final inspection**, whichever occurs first, the applicant shall obtain final inspection and approval from CalFire of all required fire/life safety measures.

24. **Prior to occupancy of any structure associated with this approval**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of this approval.

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25. **Prior to occupancy or final inspection**, the Registered Civil Engineer shall certify to the Department of Public Works that the improvements are made in accordance with all conditions of approval, including any related land use permit conditions and the approved improvement plans. All public improvements shall be completed prior to occupancy of any new structure.
26. **Prior to occupancy or final inspection**, all public improvements have been constructed in accordance with County Public Improvement Standards and to the satisfaction of the County Public Works Inspector.
27. **Prior to final inspection of construction permits and upon completion of all monitoring/mitigation activities**, the consulting archaeologist shall submit a final report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all recommended mitigation measures have been met.

On-going conditions of approval (valid for the life of the project)

28. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
29. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.
30. In accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, tree planting, fences, etc. without a valid encroachment permit issued by the Department of Public Works.
31. The property owner is responsible for the operation and maintenance of public road frontage sidewalks, landscaping, street lighting, and pedestrian amenities in a viable condition and on a continuing basis into perpetuity or until specifically accepted for maintenance by a public agency.
32. The project shall comply with the requirements of the National Pollutant Discharge Elimination System Phase I and/or Phase II storm water program and the County's Storm Water Pollution Control and Discharge Ordinance, Title 8 Section 8.68 et seq.